

CONSULTING CONTRACT

THIS CONSULTING CONTRACT ("**Contract**") is made and entered into as of July 25, 2019 ("Effective Date") between the South Carolina Department of Administration ("**the Department**"), with its corporate headquarters located at 1200 Senate Street, Suite 460, Columbia, SC 29201, and Energy and Environmental Economics, Inc., a consulting corporation whose principal office is located at 44 Montgomery Street, Suite 1500, San Francisco, CA 94104 ("**CONSULTANT**"). In consideration of the mutual agreements herein contained, it is agreed as follows:

1. SERVICES AND LIMITATION ON AUTHORITY

- 1.1. CONSULTANT agrees to perform the services described in each Schedule, or any attachments thereto, entered into and executed by the parties from time to time (hereinafter, collectively referred to as the "**Services**"). Each Schedule, which shall be incorporated herein, shall contain at minimum the following information: date of this Contract, date of Schedule, specific project location, description of Services to be performed, date when Services are to be performed or delivered, and amount of compensation payable to CONSULTANT for the Services. CONSULTANT will determine the method, details, and means of performing the Services. Each Schedule is hereby incorporated herein as if fully set forth herein. Notwithstanding the foregoing, if any terms or conditions in the Schedule are inconsistent or in conflict with the Contract, this Contract shall control.
- 1.2. CONSULTANT shall have no right, power or authority to control or direct the performance or activities of any officer, employee or agent of the Department, or to enter into any contract, agreement or arrangement or incur any obligation or liability on behalf of or for the account of the Department.
- 1.3. The Department shall have the right to make changes in the Services by issuing a change order that is to be mutually agreed upon between CONSULTANT and the Department.

2. TERM AND TERMINATION

- 2.1. This Contract shall be for a term lasting one (1) year from the date first specified above (the "**Term**"), unless earlier terminated pursuant to this Contract or extended by a mutual written agreement executed by both parties. For a Schedule executed during the term of this Contract, if the performance of the Services extends beyond the Term of this Contract, then the term of this Contract shall be extended solely for and until completion of the Services.
- 2.2. The Department may terminate the services under this Agreement upon thirty (30) days written notice. CONSULTANT may terminate this Agreement upon thirty (30) days written notice should the Department fail to perform in accordance with the terms of this Agreement through no fault of the CONSULTANT. Invoiced satisfactory services to date of termination, based on provisions for compensation herein, shall be submitted to the Department within thirty (30) days and the Department will render payment within thirty

(30) days after receipt of the invoice. Thereafter, no further invoices for services shall be submitted for payment.

- 2.3 Upon receipt of notice of termination from the Department, unless otherwise permitted by the foregoing provisions of Section 2.2 or otherwise instructed within the body of such notice, CONSULTANT shall discontinue its Services, and as soon as reasonably possible thereafter, shall deliver to the Department all data, documents, drawings, reports, estimates, summaries and such other information and materials, as may have been accumulated by CONSULTANT in the performance of this Contract, whether completed or in process.

3. COMPENSATION

- 3.1. Compensation to CONSULTANT for the Services shall be calculated as described in the Schedule covering such Services and shall be paid in United States dollars. No expenses of CONSULTANT shall be reimbursable by the Department unless the obligation and manner of reimbursement is expressly set forth in said Schedule.
- 3.2. CONSULTANT shall have thirty (30) days after the completion of Services to invoice the Department for all amounts due and outstanding under each Schedule.
- 3.3. The Department shall pay each invoice within a reasonable time of receipt of invoice. Payment instructions and E3's W9 form will be provided to the Department after contract execution.
- 3.4. CONSULTANT shall submit all invoices, corresponding documentation and receipts for Direct Expenses to the following address:

David Avant, General Counsel for the SC Department of Administration
Email address: David.Avant@admin.sc.gov

4. PROFESSIONAL STANDARDS

CONSULTANT assumes complete professional and technical responsibility for performance of all Services in accordance with recognized prudent professional standards applicable in the industry of CONSULTANT, and in accordance with all applicable laws, regulations, standards and codes.

5. INDEPENDENT CONTRACTOR

- 5.1. CONSULTANT enters into this Contract as an independent contractor. Under no circumstances shall CONSULTANT look to the Department as its employer, nor as a partner, agent or principal. CONSULTANT shall not be entitled to any benefits accorded to the Department's employees, including, without limitation, worker's compensation, disability insurance, and vacation or sick pay.

6. CONFIDENTIALITY

Confidentiality obligations of Consultant and the Department shall be set forth in a separate non-disclosure agreement (NDA) document to be executed by the parties.

7. INSURANCE

7.1. CONSULTANT shall maintain in full force and effect during the term of this Contract, the insurance described below.

7.1.1. Workers' Compensation/Employers Liability Insurance with limits as follows:

(i) Workers' Compensation – Statutory.

(ii) Employers Liability –Bodily Injury by accident \$1,000,000 each accident, and Bodily Injury by disease \$1,000,000 each employee/\$1,000,000 policy limit.

7.1.2. Commercial General Liability insurance with limits of (i) \$1,000,000 per occurrence for Bodily Injury and Property Damage and (ii) \$2,000,000 General Aggregate, and (iii) a \$1,000,000 Umbrella policy.

7.1.3. Auto Liability insurance for owned, hired and non-owned vehicles with limits of \$1,000,000 per accident, and coverage to be written on an occurrence form.

7.1.4. Professional Liability insurance with limits of (i) \$2,000,000 per claim and (ii) \$2,000,000 aggregate, with coverage to be written on a claims-made form.

7.1.5. Should CONSULTANT subcontract any of the Services to a third party, CONSULTANT shall require such subcontractor to furnish the same insurance as required of CONSULTANT hereunder.

8. INDEMNITY AND LIMITATION OF LIABILITY

8.1. CONSULTANT shall indemnify and hold harmless the Department affiliates, and all of its employees, officers, directors, and shareholders, (collectively "Indemnitees") from and against any and all losses, damages, expenses, obligations, and judgments, including attorneys' fees, arising out of or in connection with the performance of the Services of this Contract to the extent caused by acts and omissions by CONSULTANT with respect to the Services under this Agreement. Indemnification shall be limited to the cost of Services and shall be limited to the period two years following completion of Services.

8.2. Any statutory limitations now or hereafter in effect which affect the validity or enforceability of the indemnification provisions in this Contract are made a part hereof in the respective jurisdiction where the statute applies and any such statutory limitations shall operate to amend the indemnity provisions hereof to the minimum extent necessary to bring such provisions into conformity with the requirements of the statute. So modified, the indemnity provisions of this Contract shall continue in full force and effect.

- 8.3. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE TERMINATION HEREOF.

9. ASSIGNMENT AND SUBCONTRACTING

CONSULTANT shall not have the right to assign this Contract or subcontract any of the Services without the prior written consent from the Department. The Department may assign its rights and obligations hereunder to an affiliate, its parent company or another entity involved in the subject matter of the Services or in connection with any merger, acquisition or similar event. the Department shall provide Consultant written notice of any such assignment within 30 days of its occurrence. Any assignment not authorized pursuant to this paragraph shall be void and unenforceable.

10. OWNERSHIP OF CREATED MATERIALS

- 10.1. CONSULTANT grants the Department a non-exclusive, royalty free, non-transferable license to use, access, modify, display, and distribute each Deliverable. CONSULTANT retains ownership of and all proprietary rights in models, whether created before or during the Services, used to develop each Deliverable, including models used to develop data contained in each Deliverable.
- 10.2. The Department has rights to unlimited use of work products so long as the use arises out of or is related to any matter pertinent to Joint Resolution H.4287 (Act 95 of 2019) and/or any matter concerning the potential future sale, management, or reorganization of Santee Cooper generally.

11. JURISDICTION AND COMPLIANCE WITH LAW

- 11.1. This Contract and any and all Schedules, and any attachments thereto, that are subject to the terms of this Contract shall be governed by and be construed in accordance with the laws of the state where the work was performed with respect to the particular Schedule in dispute without regard to its conflict of laws principles. In the event a dispute arises under this Contract and not any specific Schedule, or if a dispute arises with respect to multiple Schedules for work in different states, then the Contract and, if applicable, the Schedules, shall be governed by and be construed in accordance with the laws of the State of South Carolina without regard to its conflict of laws principles. Each party hereby irrevocably agrees that any legal action or proceeding with respect to this Contract and, if applicable, any Schedule, shall be brought in the federal or state Courts of the State of South Carolina . By execution of this Contract, each party irrevocably submits to each such jurisdiction as provided above and hereby irrevocably waives any and all objections which it may have as to venue in any of the above applicable Courts.

12. PUBLICATION

All media releases or public announcements by either party relating to this Contract or the subject matter hereof, including promotional or marketing material, but excluding announcements intended solely for internal distribution or to meet legal or regulatory requirements, shall be coordinated with and approved by the other party prior to release. In addition, the parties shall refrain from removing, overprinting or defacing any notices of copyright, trademark, logo, photographs or other proprietary identifications or notices of confidentiality, or otherwise claim any affiliation with the party in any publication or public forum without obtaining prior written approval from the other party. However, nothing in this paragraph shall prevent the Department or CONSULTANT from disclosing the existence of a contractual relationship between the parties for promotional, marketing or investor relations purposes.

13. NO LICENSE

This Agreement conveys no license or right under any present or future patent, trade secret, trademark, proprietary information or other intellectual property rights owned or controlled by the Department to CONSULTANT.

14. SURVIVAL

The rights and obligations of the parties which by their nature are normally intended to survive the termination or completion of a contract like this Contract shall remain in full force and effect following termination of this Contract for any reason.

15. ENTIRE CONTRACT AND AMENDMENTS

This Contract, together with any Schedules entered into pursuant to this Contract, contain the entire agreement between the parties hereto with respect to the subject matter hereof. No amendment to this Contract or to any Schedule shall be binding upon either party hereto, unless it is in writing and executed on behalf of each party hereto by a duly authorized representative and expressly specified as such. This Contract supersedes all previous agreements, whether written or oral, including all prior Consulting Contracts entered into between the parties relating to the subject matter hereunder.

16. BINDING EFFECT

This Contract shall be binding upon and inure to the benefit of the parties hereto, and to their successors and permitted assigns.

17. SEVERABILITY

If one or more of the provisions in this Contract is deemed invalid, void or unenforceable by law, then the remaining provisions will continue in full force and effect. Moreover, if any one or more of the provisions contained in this Contract shall be held to be excessively broad or partially invalid, illegal or unenforceable, it shall be construed by limiting and reducing it, so as to be enforceable to the extent compatible with the applicable law as it shall then appear.

18. WAIVER

No waiver by the Department of any breach of this Contract shall be a waiver of any preceding or succeeding breach. No waiver by the Department of any right under this Contract shall be construed as a waiver of any other right.

19. NOTICES

All notices, correspondence and other communications under this Contract shall be in writing and shall be deemed duly given when actually received. Such notices may be given personally, by first class, registered or certified mail, or by facsimile transmission.

If to the Department:

David Avant, General Counsel for the SC Department of Administration
Email address: David.Avant@admin.sc.gov

If to CONSULTANT:

Energy and Environmental Economics, Inc.
44 Montgomery Street, Suite 1500
San Francisco, CA 94104
Attention: **Sneller Price**, Senior Partner

20. COUNTERPARTS

This Contract may be signed in any number of counterparts with the same effect as if the signatures to each counterpart were upon a single instrument, and all such counterparts together shall be deemed an original of this Contract. Execution and delivery of this Contract by exchange of facsimile copies bearing the facsimile signature of a party hereto shall constitute a valid and binding execution and delivery of this Contract by such party. Such facsimile copies shall constitute enforceable original documents.

IN WITNESS WHEREOF, this Contract is executed effective as of the day and year first above written.

The South Carolina Department of Administration

CONSULTANT

By: 

Energy and Environmental Economics, Inc.

By: 

Name: Marcia Adams _____

Name: Dr. Ren Orans

Title: Executive Director _____

Title: Managing Partner

Date: 7/25/19

Date: 7/25/19

SCHEDULE 1

Section A – Scope of Services

Task	Section of Bill	UPA&C
For both Path 1 and Path 2		
Develop sufficient familiarity with Santee Cooper's current situation to achieve the remaining tasks	N/A	\$10,000
Administer procurement and dissemination of Santee Cooper data	1(C), 2(B)(8)	\$15,000
Determine what contacts Santee Cooper must provide us (bondholders, underwriters, financial institutions, other advisers)	1(C)	\$5,000
Assess the comprehensiveness of the Santee Cooper-submitted data	1(C)	\$20,000
Review ICF info to gain insights	N/A	\$10,000
Develop all legal contract language applicable to all bidders	9	\$5,000
Develop and negotiate final contract language and supporting docs w selected bidder	9	\$5,000
For all of Paths 1, 2, and 3	Section of Bill	UPA&C
Ensure that the effects on retail and wholesale customers of any proposal negotiated by a bidder with Central are "initially proportionate"	7	\$75,000
Draft NDAs for all situations	8	
Assist in drafting final report to the General Assembly	N/A	\$50,000
Assist in presenting final report to the General Assembly	N/A	\$10,000
Path 1 (Acquisition)	Section of Bill	UPA&C
Develop three alternative resource plans to become the basis for each bidder's bid	N/A	\$125,000
Develop the assumptions to be used by bidders	N/A	\$20,000
Develop the actual RFP for the bidders	N/A	\$25,000
Determine bidders' financial capability	2(A)(1)	
Assess bidders' plan to address Santee Cooper's indebtedness; compare bidders' financing options w Santee's current financing options	2(A)(2); 2(B)(4)	
Determine effect on Santee Cooper's retail customers of the plan to address its indebtedness	2(A)(2)(c)	\$20,000
Assess the amount of cash to be paid to the State	2(A)(3)	
Assess the projected rates and revenue requirements for each customer class of Santee Cooper's retail customers over 20 years, plans for achieving those rates and willingness to commit contractually to the rates	2(A)(4)	\$75,000

Assess bidders' plans for generation, power purchases, and other resources for next 20 years	2(A)(5)	\$70,000
Assess bidders' plans for transmission investments for the next 20 years	2(A)(6)	\$50,000
Assess bidders' willingness to bear FERC-required costs of mitigating market power arising from the acquisition	2(A)(7)	\$10,000
Assess bidders' plans for protecting employee benefits and pensions	2(A)(8)	
Assess bidders' projections of jobs eliminated	2(A)(9)	\$5,000
Assess bidders' proposed HQ location	2(A)(10); 2(B)(6)	
Assess the bidders' proposed treatment of Santee Cooper water assets; compile list of items, such as water and recreational systems, that would be excluded from bidders' purchase	2(A)(11); 2(B)(2)	\$5,000
Assess the bidders' willingness and capacity to partner w the State on econ development	2(A)(12)	
Compare the bidders' SC service territory with that of the IOUs serving in SC	2(A)(13)	\$10,000
Assess any terms or conditions the bidder requires	2(A)(14)	\$15,000
Assess bidders' prior regulatory filings	post 2(A)(14)	\$25,000
Assess risks to taxpayers, and to Santee retail customers, and bondholders	2(B)(3)	\$25,000
Determine which portion of Summer-related debt is not used and useful	2((B)(5)	\$25,000
Assess the bidders' character (corp priorities, corp structure, regulatory relations)	N/A	\$15,000
Assess bidders' intent and capability to serve for at least 20 yrs	2(B)(7)	\$15,000
Path 2 (Management)	Section of bill	UPA&C
Develop the actual RFP for the applicants, including all requirements (including term of years) and expectations	N/A	\$10,000
Assess time period for the proposal	3(A)(1)	\$5,000
Assess the 20-year rate path, for each customer class, proposed by the bidder	3(A)(2)	\$45,000
Assess costs and benefits of the proposal	3(A)(3)	\$65,000
Assess how the proposal addresses needs for generation, transmission, distribution, and other resources	3(A)(4)	\$75,000
Get opinion letter from bond attorney that the proposal will neither violate nor alter terms of Santee Cooper's indebtedness	3(A)(5)	
Get opinion letter from tax attorney that the proposal will not affect Santee Cooper's tax status	3(A)(6)	
Assess bidder experience with IOUs and publicly-owned utilities	3(A)(7)	\$10,000

Assess proposals' effect on employees	3(A)(8)	\$5,000
Assess bidders' financial capability	3(A)(9)	
Compare the service territory served with the SC IOUs' service territories	3(A)(10)	\$10,000
Assess all risks to taxpayers, and Santee customers and bondholders	3(B)(2)	\$35,000
Compare bidder's financing options for anticipated projects with financing options currently available to Santee Cooper	3(B)(3)	
Consider if bidder offers franchise fee	3(B)(4)	
Path 3 (Santee Cooper restructuring)	Section of bill	UPA&C
Develop specs for Santee Cooper's submission on restructuring	N/A	\$50,000
Assess Santee Cooper's resource plans over 20 years (including demand forecasts, financial effects on ratepayers, all financial assumptions, amount of retail rate increases)	4(A)(1)	\$130,000
Assess plans to address Summer debt and its effect on retail ratepayers	4(A)(3)	\$35,000
Assess proposal for reform, restructuring, and operational changes	4(A)(4)	\$50,000
Assess projected impact on all retail rate classes for satisfying old debt and issuing new debt	4(A)(6)	\$60,000
Assess projections of jobs	4(A)(7)	\$5,000
Compare Santee Cooper's rate projections with all other proposals	4(B)(1)	\$40,000
Assess risks to state's taxpayers, Santee Cooper's retail ratepayers, and Santee Cooper's bondholders	4(B)(2)	\$30,000
Assess plans for transmission investment (including timeline, financial impacts on retail ratepayers)	4(A)(2)	\$40,000
Negotiations over Central contract	Section of bill	UPA&C
Master all elements of the Central contract situation, including interviewing Central	5	\$10,000
Develop internal options for how to resolve the situation consistent with the State's broad interests	5	\$5,000
Develop procedures for negotiations	5	\$5,000
Conduct negotiations	5	\$15,000
Ensure that rate effects of the Central result are "initially proportional"	7	\$5,000
Budget Totals		\$1,480,000

NOTE: A column containing a dollar figure indicates CONSULTANT commits to perform the task identified in the corresponding line-item of Schedule 1, Section A – Scope of Services. The specific dollar figure represents the estimated compensation of CONSULTANT based on a time and materials basis plus

reasonable expenses. CONSULTANT's actual compensation for these tasks will be based on the time and materials hourly rate schedule as shown in Schedule 1, Section B – Compensation. CONSULTANT's actual compensation for these tasks will be included in the computation of CONSULTANT's total compensation for purposes of determining whether the overall not-to-exceed budget total of \$1,480,000 has been reached.

Section B – Compensation

Compensation will be on a time and materials basis plus reasonable expenses per the overall not-to-exceed budget total shown in Section A, which is **\$1,480,000**. This represents an estimated 5,000 hours of billable time. The time and materials hourly rate schedule is shown by staff title below.

Title	Standard
Managing Partner	\$575
Senior Partner	\$475
Senior Partner	\$450
Partner	\$425
Senior Director	\$380
Director	\$365
Senior Managing Consultant	\$340
Managing Consultant	\$325
Senior Consultant	\$315
Consultant III	\$295
Consultant II	\$260
Consultant I	\$235

Travel and Subsistence Reimbursement

As required by South Carolina state law, the Department of Administration's contractors and consultants must follow the same rules for travel and reimbursement that are applicable to state employees. (Applicable travel rules and reimbursement requirements are set forth in the "State of South Carolina Statewide Disbursement Regulations", which are posted on the state Comptroller General's website, <https://cg.sc.gov>.) The CONSULTANT will therefore adhere to the following conditions when seeking reimbursement from the Department for any travel and subsistence expenses: for lodging, upon presentation of a paid receipt, reimbursement shall be allowed for actual expenses incurred for lodging, not to exceed the current maximum lodging rates, excluding taxes, established by the U.S. General Services Administration; for meals, reimbursement shall be allowed for the actual expenses incurred in the obtaining of meals except that such costs shall not exceed \$35 per day; for travel by commercial airlines, reimbursement shall be allowed only for coach or tourist class tickets, except where exigencies require otherwise.

Section C – Schedule

The schedule of services for this contract will be from contract execution through March 2020.